

Docket No.: 2121-0178P  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Patrizia PATERLINI-BRECHOT

Application No.: 10/695,744 ✓

Confirmation No.: 7652

Filed: October 30, 2003

Art Unit: 1634

For: PRENATAL DIAGNOSIS METHOD ON  
ISOLATED FOETAL CELL OF MATERNAL  
BLOOD

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Examiner: C. J. Myers

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**

**UNDER 37 CFR § 1.705 (d)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

Pursuant to CFR § 1.705 (d), the Applicant hereby requests reconsideration of the Patent Term Adjustment (PTA) indicated on the Notice of Allowance for Application No. 10/695,744 (Exhibit 1). The Notice of Allowance indicates that the PTA is 0 days. However, Applicant submits that the PTA should correctly be 75 days.

**STATEMENT OF FACTS**

1. The Notice of Allowance, which issued in this case on May 28, 2009, indicated that the PTA to date was 0 days, (see page 3 of Exhibit 1).
2. The U.S. Patent and Trademark Office's PTA History, as found in the Patent Application Information Retrieval (PAIR) system, indicates a PTA due to

prosecution delays of 0 days, based upon 305 days of USPTO delays minus 378 days of Applicant delay (see Exhibit 2).

3. However, the PAIR system does not indicate any PTA due to the USPTO's failure to issue a patent within three (3) years (36 months) from the actual filing date of the application, October 30, 2003 (37 C.F.R. § 1.702(b)), which delay was 148 days.
4. In accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, 88 USPQ2d 1538 (D.D.C. 2008), the correct PTA should be 305 days of PTO Prosecution delay, less 378 days of applicant delay, plus 148 days for the failure of the USPTO to issue a patent within three (3) years of the actual filing date of the application (37 C.F.R. § 1.702(b)), for a total of 75 days of PTA.
5. Accordingly, Applicant hereby requests that the U. S. Patent and Trademark Office correct the calculation of the PTA for the above-identified patent to 75 days.

**COMPLIANCE WITH REQUIREMENTS OF  
37 CFR § 1.705 (b)(1) AND (2)**

6. A statement of facts is presented above, detailing the relevant dates and the correct PTA.
7. The present application is not subject to any Terminal Disclaimer or any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).
8. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

Application No. 10/695,744  
Request for Reconsideration of Patent Term Adjustment  
Filed August 27, 2009

### CONCLUSION

The USPTO is requested to correctly indicate that U.S. Application No. 10/695,744 is entitled to 75 days of Patent Term Adjustment.

### PAYMENT OF FEES

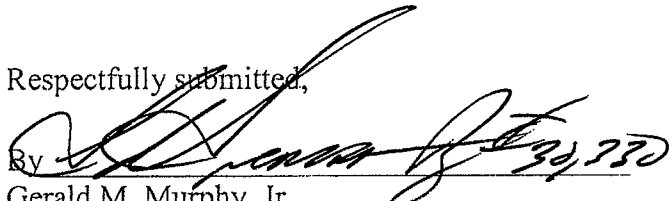
As set forth in the attached Fee Transmittal, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr., Reg. No. 28,977 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: August 27, 2009

Respectfully submitted,

By   
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# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,744	10/30/2003	Patrizia Paterlini-Brechot	2121-0178P	7652
2292	7590	05/28/2009	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			MYERS, CARLA J	
			ART UNIT	PAPER NUMBER
			1634	
DATE MAILED: 05/28/2009				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

10/695,744	PRENATAL DIAGNOSIS METHOD ON ISOLATED FOETAL CELL OF MATERNAL BLOOD	07-30-2009::15:36:04
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### Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/695,744

Filing or 371(c) Date:	10-30-2003	USPTO Delay (PTO) Delay (days):	305
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	378
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

### Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
05-28-2009	Mail Notice of Allowance		
05-25-2009	Document Verification		
05-25-2009	Notice of Allowance Data Verification Completed		
05-22-2009	Examiner's Amendment Communication		
04-25-2009	Date Forwarded to Examiner		
04-15-2009	Response after Non-Final Action		90
04-15-2009	Request for Extension of Time - Granted		⬆
10-15-2008	Electronic Review		⬆
10-15-2008	Email Notification		⬆
10-15-2008	Mail Non-Final Rejection		⬆
10-09-2008	Non-Final Rejection		
02-20-2008	Information Disclosure Statement considered		
08-20-2008	Date Forwarded to Examiner		
08-20-2008	Date Forwarded to Examiner		
08-05-2008	Request for Continued Examination (RCE)		92
08-20-2008	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		⬆
08-05-2008	Request for Extension of Time - Granted		⬆
08-05-2008	Workflow - Request for RCE - Begin		⬆
02-20-2008	Information Disclosure Statement (IDS) Filed		⬆
02-20-2008	Miscellaneous Incoming Letter		⬆
02-20-2008	Information Disclosure Statement (IDS) Filed		⬆
02-06-2008	Electronic Review		⬆
02-05-2008	Email Notification		⬆
02-05-2008	Mail Final Rejection (PTOL - 326)		⬆
01-31-2008	Final Rejection		
12-18-2007	Email Notification		
12-03-2007	Mail Miscellaneous Communication to Applicant		
11-29-2007	Miscellaneous Communication to Applicant - No Action Count		
10-31-2007	Improper Request for Continued Examination		
11-29-2007	Date Forwarded to Examiner		
10-31-2007	Response after Non-Final Action		76

EXHIBIT 2

10-31-2007	Request for Extension of Time - Granted	⬆	
10-31-2007	Workflow - Request for RCE - Begin	⬆	
05-17-2007	Electronic Review	⬆	
05-16-2007	Email Notification	⬆	
05-16-2007	Mail Non-Final Rejection	⬆	
05-10-2007	Non-Final Rejection		
03-30-2007	Date Forwarded to Examiner		
03-30-2007	Date Forwarded to Examiner		
03-30-2007	Date Forwarded to Examiner		
03-28-2007	Request for Continued Examination (RCE)		
03-30-2007	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
03-28-2007	Workflow - Request for RCE - Begin		
12-20-2006	Mail Advisory Action (PTOL - 303)		
12-18-2006	Advisory Action (PTOL-303)		
12-08-2006	Date Forwarded to Examiner		
11-28-2006	Amendment/Argument after Notice of Appeal		
11-28-2006	Notice of Appeal Filed		61
11-28-2006	Request for Extension of Time - Granted	⬆	
06-28-2006	Mail Final Rejection (PTOL - 326)	⬆	
06-26-2006	Final Rejection		
03-31-2006	Miscellaneous Incoming Letter		
03-31-2006	Certified Translation of Foreign Priority Document		
04-12-2006	Date Forwarded to Examiner		
03-31-2006	Response after Non-Final Action		59
03-31-2006	Request for Extension of Time - Granted	⬆	
04-07-2006	CRF Is Good Technically / Entered into Database	⬆	
10-31-2005	Mail Non-Final Rejection		305
10-27-2005	Non-Final Rejection	⬆	
02-12-2004	Information Disclosure Statement considered	⬆	
10-11-2005	IFW TSS Processing by Tech Center Complete	⬆	
10-11-2005	Case Docketed to Examiner in GAU	⬆	
02-12-2004	Reference capture on IDS	⬆	
02-12-2004	Information Disclosure Statement (IDS) Filed	⬆	
02-12-2004	Information Disclosure Statement (IDS) Filed	⬆	
02-12-2004	Request for Foreign Priority (Priority Papers May Be Included)	⬆	
11-17-2004	Application Return from OIPE	⬆	
11-17-2004	Application Return TO OIPE	⬆	
11-17-2004	Application Return from OIPE	⬆	
11-17-2004	Application Is Now Complete	⬆	
11-17-2004	Application Return TO OIPE	⬆	
11-17-2004	Application Return from OIPE	⬆	

11-17-2004	Application Is Now Complete	⬆
11-17-2004	Application Return TO OIPE	⬆
11-17-2004	Application Dispatched from OIPE	⬆
11-17-2004	Application Is Now Complete	⬆
10-12-2004	Additional Application Filing Fees	⬆
10-30-2003	Claim Preliminary Amendment	⬆
08-13-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	⬆
10-12-2004	Translation of Claims into English	⬆
10-12-2004	Applicant has submitted new drawings to correct Corrected Papers problems	⬆
10-12-2004	Translation of Specification into English	⬆
08-11-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	⬆
01-21-2004	Cleared by OIPE CSR	⬆
12-02-2003	IFW Scan & PACR Auto Security Review	⬆
10-30-2003	Initial Exam Team nn	⬆

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